



APPELLANTS' BRIEF ON APPEAL

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
)
)
 Robert J. Fite) Examiner: Younghuie Han
)
)
Serial No.: 09/476,219) Group Art Unit: 2838
)
)
Filed: December 30, 1990) Docket: 884.182US1
)
For: NON-LINEAR ADAPTIVE)
 VOLTAGE POSITIONING)
 FOR DC-DC Customer No. 21186
 CONVERTERS

Assignee: Intel Corporation

APPELLANTS' BRIEF ON APPEAL

Mail Stop Appeal Brief--Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This brief is presented in support of the Notice of Appeal filed on May 21, 2004, from the final rejection of claims 1-16 of the above identified application. The Final Office Action from which the Appellant hereby appeals was mailed on April 20, 2004.

The appeal brief is filed in triplicate. Authorization to charge Deposit Account No. 19-0743 in the amount of \$330.00 to cover the fee for filing the appeal brief set forth in 37 C.F.R. § 1.17(c) is given. Please charge any additional required fees or credit overpayment to Deposit Account 19-0743. Appellant respectfully requests reversal of the Examiner's rejection of pending claims 1-16.

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APPELLANTS' BRIEF ON APPEAL

Serial Number: 09/476,219

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1. REAL PARTY IN INTEREST

The real party in interest of the above-captioned patent application is the assignee, Intel Corporation, a corporation organized and existing under and by virtue of the laws of the State of Delaware, and having an office and place of business at 2625 Walsh Avenue, Santa Clara, California, 95051.

2. RELATED APPEALS AND INTERFERENCES

There are no appeals or interferences known to the Appellant which will have a bearing on the Board's decision in the present appeal.

3. STATUS OF THE CLAIMS

Claims 1-16 are pending in the present application, and stand under Final Rejection. Claims 1-16 were rejected under 35 U.S.C. §112, first paragraph, and under 35 U.S.C. §102(e) as being anticipated by Hua et al. (U.S. 5,999,433) or Buono (U.S. 5,949,222).

4. STATUS OF AMENDMENTS

No amendments are pending, and the status of the pending claims is reflected in the attached Appendix I, listing the claims on appeal.

5. SUMMARY OF THE INVENTION

A nonlinear adaptive voltage positioning DC-DC converter is provided in one embodiment, including a system and method for sensing a current drawn from the DC-DC converter, and adjusting the voltage provided from the DC-DC converter such that the voltage is at a maximum current voltage level when the current drawn is at a maximum load current level and the voltage is at a minimum current voltage level when the current drawn is at a minimum but nonzero load current level.

6. ISSUES PRESENTED FOR REVIEW

- I. Whether the drawings, specification, and amendments are proper.
- II. Whether Claims 1-16 are unpatentable under 35 U.S.C. 112, first paragraph.
- III. Whether Claims 1-16 are unpatentable under 35 USC § §102(e) as being anticipated by Hua et al. (U.S. 5,999,433) or Buono (U.S. 5,949,222), and further as being anticipated by Yang et. al (U.S. 6,130,526).

7. GROUPING OF CLAIMS

The claims of the present invention stand or fall together as a single group for purposes of this appeal.

8. ARGUMENT

1) *The Applicable Law*

As described in MPEP § 2164 et seq., the following represents the *prima facie* case that the Examiner must provide in order to maintain a rejection of nonenablement with respect to the disclosure of a patent application under 35 U.S.C. § 112, first paragraph:

1. a rational basis as to
 - a. why the disclosure does not teach, or
 - b. why to doubt the objective truth of the statements in the disclosure that purport to teach;
2. the manner and process of making and using the invention;
3. that correspond in scope to the claimed invention;
4. to one of ordinary skill in the pertinent technology;
5. without undue experimentation; and
6. dealing with subject matter that would not already be known to the skilled person as of the filing date of the application.

Anticipation under 35 U.S.C. 102(e) requires the disclosure in a single prior art reference of each element of the claim under consideration. *In re Dillon* 919 F.2d 688, 16 USPQ2d 1897, 1908 (Fed. Cir. 1990) (en banc), cert. denied, 500 U.S. 904 (1991). Anticipation further "requires the presence in a single prior reference disclosure of each and every element of the claimed invention, *arranged as in the claim.*" *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (emphasis added).

2) *Discussion of the Rejections*

I. Whether the drawings, specification, and amendments are proper.

Regarding the Drawings

Applicant believes that the drawings as amended illustrate the elements of the pending claims discussed in the Office Action, and so has not amended the drawings. Figure 6 shows at 601 a module to adjust the voltage, and at 602 a module operable to sense a current. Converter 601 represents a hardware module, and Figures 7 and 8 describe methods as may be performed in software to practice the present invention.

Applicant points out that these drawings were previously filed in response to these same objections.

Regarding the Specification

Figure 6 is supported by the specification of the application as filed, as it was introduced for the primary purpose of illustrating elements of claims 9 and 10 in response to objections previously raised and as repeated above. Claim 9 recites "A DC-DC converter" show at 601 of

Figure 6, “a module operable to sense a current drawn from the DC-DC converter” 602, and claim 10 recites “wherein adjusting the voltage in response to the sensed current is performed via hardware” element 603.

Objection to the Amendments

The Examiner objected to the amendments filed on June 17, 2002 and January 24, 2002 under 35 U.S.C. 132 because they introduced new matter into the disclosure.

Applicant respectfully submits that no filing was made on June 17, 2002 or on January 24, 2002. Applicant replied to a notice of noncompliant amendment on June 6, 2002, by simply repeating relevant portions of an amendment and response filed November 30, 2001. Applicant again assumes that the material filed November 30, 2001, is the material in question.

As described above, Figure 6 was not presented on the Applicant's own initiative, but was in response to an objection that elements of certain claims such as 9 and 10 were not shown in the drawings. Applicant therefore introduced claim 6, which only shows these relevant elements, including claim 9's recitation of “A DC-DC converter” shown at 601 of Figure 6, “a module operable to sense a current drawn from the DC-DC converter” 602, and claim 10's recitation of “wherein adjusting the voltage in response to the sensed current is performed via hardware” element 603.

Applicant is further troubled by objections to Figure 6 and the accompanying description as containing new matter, when the same Office Action (mailed 4/20/2004) states on p. 3, second paragraph, that the newly proposed Figure 6 and accompanying amendment “do not provide any new insight as to how to make and how to use the claimed invention.”

Applicant therefore submits that because previous Office Actions required applicant to introduce this drawing showing these elements that are clearly present in the claims, these elements are fully supported by the claims that originally disclosed these elements and do not add

new matter. Applicant therefore respectfully requests withdrawal or reversal of the objections to the amendments as detailed above.

II. Whether Claims 1-16 are unpatentable under 35 U.S.C. 112, first paragraph.

Applicant submits that the questions of enablement raised in the last Office Action, including specifically sensing an output current, are very well-known in the art. Further, examples are provided, such as on p. 7, ln. 27-30, which describes using a current sense resistor to sense output current. This section even goes on to explain application of Ohm's law, wherein the current is converted to a voltage drop across the current sense resistor of a known value and measured as a voltage.

Applicant further submits that adding voltages, sensing current through reading voltage across a resistor using Ohm's law, and other such basic electronic functions are very well-known in the art, and are disclosed in many books on basic electricity and electronics, including as one example, *Horowitz and Hill, The Art of Electronics* (2nd ed, 1989, Cambridge University Press).

Because such subject matter would be known to any person skilled in the art without undue experimentation, and because the subject matter is disclosed by way of example provided in the Detailed Description, the pending claims 1-16 are believed to be allowable under 35 U.S.C. §112, first paragraph.

III. Whether Claims 1-16 are unpatentable under 35 USC § §102(e) as being anticipated by Hua et al. (U.S. 5,999,433) or Buono (U.S. 5,949,222), and further as being anticipated by Yang et. al (U.S. 6,130,526).

Anticipation under 35 U.S.C §102 requires the disclosure in a single prior art reference of each element of the claim under consideration (*In re Dillon* 919 F.2d 688, 16 USPQ2d 1897, 1908 (Fed. Cir. 1990) (en banc), cert. denied, 500 U.S. 904 (1991)).

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The rejection failed to point out specifically how the various elements of the pending claims are supposed to be anticipated by these references, except to state that both references show DC to DC converters that sense current and adjust voltage. The Examiner has failed to show in any Office Action how either the Hsu or Buono references cited contain any specific elements corresponding to claimed elements of the present invention.

More specifically, the Examiner has failed to show in any office action that the adjusting element or module of the pending claims that indicates a voltage is at a minimum current voltage level when the current drawn is at a minimum but nonzero load current level (*see, e.g.*, claim 1).

Claims 1-16 were also rejected under 35 USC § 102(e) as being anticipated by Yang et al. (U.S. 6,130,526).

The Examiner has again failed to show in any office action how the cited Yang contain any specific elements corresponding to claimed elements of the present invention. More specifically, the Examiner has again failed to show that the adjusting element or module of the pending claims that indicates a voltage is at a minimum current voltage level when the current drawn is at a minimum but nonzero load current level.

Because no Office Action has attempted to demonstrate how any of the cited references show anticipation of the pending claims by Hua, Buono, Yang, or any other reference, the claims are believed to be in condition for allowance under 35 U.S.C. §102(e). Reversal of the rejection of claims 1-16 is therefore respectfully requested.

9. SUMMARY

Applicants believe the claims are in condition for allowance and request withdrawal of the rejections to the pending claims. It is respectfully submitted that the cited art neither anticipates nor renders the claimed invention obvious and that the claimed invention is therefore patentably distinct from the cited art. It is respectfully submitted that claims 1-16 should therefore be allowed, and reversal of the Examiner's rejections of pending claims 1-16 is respectfully requested.

Respectfully submitted,

ROBERT FITE

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Date

Aug 23 '04

By

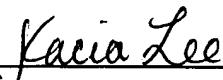


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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Appeal Brief--Patents, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 23 day of August, 2004.

Kacia M. Lee
Name

Signature



APPENDIX I

The Pending Claims on Appeal

1. (Previously Presented) A method of providing a voltage from a DC-DC converter such that the voltage provided varies dependent on the current drawn from the DC-DC converter, comprising:

sensing a current drawn from the DC-DC converter; and

adjusting the voltage provided from the DC-DC converter such that the voltage is at a maximum current voltage level when the current drawn is at a maximum load current level and the voltage is at a minimum current voltage level when the current drawn is at a minimum but nonzero load current level.

2. (Original) The method of claim 1, further comprising adjusting the voltage provided from the DC-DC converter to provide a substantially linear voltage response with respect to current drawn between the maximum load current level and the minimum load current level.

3. (Original) The method of claim 1, further comprising adjusting the voltage provided from the DC-DC converter such that the voltage is at the minimum current voltage level when the current drawn is below the minimum load current level.

4. (Original) The method of claim 1, wherein the minimum load current level is the minimum current drawn by a known load device having a minimum current draw of greater than no current.

5. (Original) The method of claim 1, wherein the minimum load current level is a selected current level between but not including no current and the maximum load current level.
6. (Original) The method of claim 1, wherein sensing a current drawn from the DC-DC converter comprises sensing the voltage across a current sensing resistor connected in series with an output of the DC-DC converter.
7. (Previously Presented) A method of providing a voltage from a DC-DC converter such that the voltage provided varies dependent on the current drawn from the DC-DC converter, comprising:
 - sensing an output current drawn from the DC-DC converter;
 - converting the sensed output current to a voltage signal indicating the sensed output current;
 - adjusting the voltage signal indicating the sensed output current such that the voltage is at a minimum level when the current drawn is at a maximum load current level and the voltage is at a maximum level when the current drawn is at a minimum but nonzero load current level; and
 - adding the adjusted voltage signal to the voltage provided by the DC-DC converter.
8. (Previously Presented) A method of providing a voltage from a DC-DC converter such that the voltage provided varies dependent on the current drawn from the DC-DC converter, comprising:
 - sensing an output current drawn from the DC-DC converter;
 - converting the sensed output current to a voltage signal indicating the sensed output current;
 - adjusting the voltage signal indicating the sensed output current such that the voltage is at a maximum current voltage level when the current drawn is at a maximum load current level and

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the voltage is at a minimum current voltage level when the current drawn is at a minimum but nonzero load current level; and

subtracting the adjusted voltage signal from the voltage provided by the DC-DC converter.

9. (Previously Presented) A DC-DC converter, comprising:

a module operable to sense a current drawn from the DC-DC converter and further operable to adjust the voltage provided from the DC-DC converter such that the voltage is at a maximum current voltage level when the current drawn is at a maximum load current level and the voltage is at a minimum current voltage level when the current drawn is at a minimum but nonzero load current level.

10. (Original) The DC-DC converter of claim 9, wherein adjusting the voltage in response to the sensed current is performed via hardware.

11. (Original) The DC-DC converter of claim 9, wherein adjusting the voltage in response to the sensed current is performed via software executing on a processor.

12. (Original) The DC-DC converter of claim 9, wherein sensing a current drawn from the DC-DC converter comprises measuring the voltage across a current sensing resistor connected in series with an output of the DC-DC converter.

13. (Original) The DC-DC converter of claim 9, wherein the module is further operable to provide a substantially linear voltage response with respect to current drawn between the maximum load current level and the minimum load current level.

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14. (Original) The DC-DC converter of claim 9, wherein the module is further operable to provide a voltage at the minimum current voltage level when the current drawn is below the minimum load current level.
15. (Original) The DC-DC converter of claim 9, wherein the minimum load current level is the minimum current drawn by a known load device having a minimum current draw of greater than no current.
16. (Original) The DC-DC converter of claim 9, wherein the minimum load current level is a selected current level between but not including no current and the maximum load current level.